

ASSASSINATION MATERIALS DISCLOSURE ACT OF 1992

HEARINGS BEFORE THE LEGISLATION AND NATIONAL SECURITY SUBCOMMITTEE OF THE COMMITTEE ON GOVERNMENT OPERATIONS HOUSE OF REPRESENTATIVES ONE HUNDRED SECOND CONGRESS

SECOND SESSION

ON

H.J. RES. 454

TO PROVIDE FOR THE EXPEDITIOUS DISCLOSURE OF RECORDS
RELEVANT TO THE ASSASSINATION OF PRESIDENT JOHN F. KENNEDY

APRIL 28, MAY 15, AND JULY 22, 1992

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ASSASSINATION MATERIALS DISCLOSURE ACT OF 1992

FRIDAY, MAY 15, 1992

HOUSE OF REPRESENTATIVES,
LEGISLATION AND NATIONAL SECURITY SUBCOMMITTEE
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2154, Rayburn House Office Building, Hon. John Conyers, Jr. (chairman of the subcommittee) presiding.

Members present: Representatives John Conyers, Jr., Ray Thornton, and Steven Schiff.

Also present: Representative Patsy T. Mink.

Subcommittee staff present: James C. Turner, associate counsel; Rosalind Burke-Alexander, clerk; and James L. George, minority professional staff.

Full committee staff present: Donald F. Goldberg, professional staff member.

Mr. CONYERS. Good morning. The subcommittee will come to order. Today we are conducting the final hearing on H.J. Res. 454, the Assassination Materials Disclosure Act. The assassination of President John F. Kennedy was a tragedy which touched all of us who were alive in 1963 and which continues to be felt to this day. We lost a unique leader who brought a singular humanity and a lasting vision to American policy both at home and abroad.

The legislation being considered would publicly release the investigative files and other documents relating to the assassination. The American people need to know what the Government knows about the tragic murder of their President at 12:30 p.m. in Dallas, TX on November 22, 1963.

Too many Americans feel that something is being concealed and the only way to put these concerns to rest is to open the files, as many of them as possible, now.

The 1964 Warren Commission conclusion that Oswald, acting alone, was responsible for the death of President Kennedy has been questioned from the day it was first made public.

In subsequent years, the matter has been probed by the Rockefeller Commission, the Church committee, and the House Select Committee on Assassinations.

And as a result, 28 years later, there are thousands of documents relating to the assassination that are still secret from the American people and the Congress. So I think it is time to open all of these secret files regardless of whether generated by congressional

probes or by the Federal Bureau of Investigation or by the Central Intelligence Agency.

Under current law, many of these materials will still be hidden from public view until the year 2029. If there is no legitimate national security reason to keep them secret any longer, hasn't the time come to end this unnecessary and destructive secrecy?

We have had different responses from different parts of the executive branch. The CIA ironically, the most secretive agency of our Government, has apparently expressed the most willingness to work constructively to achieve the common goal that I have mentioned.

The Department of Justice needs more work. We are trying to get a negotiated position that will soften some of the constitutional posturing that has been enunciated to us.

We think that there is a simple principle that should guide us in considering this legislation. If there is nothing to hide, then open up the files. Continued unthinking secrecy is the most damaging course. We are delighted to have executive branch witnesses who will be important in the resolution of this important piece of legislation.

[The prepared statement of Mr. Conyers follows:]

Mr. CONYERS. We welcome and greet the Honorable Robert Gates, Director of the CIA since November of last year. Prior to assuming leadership of the Intelligence Agency, Mr. Gates served as assistant to the President and Deputy for National Security Affairs.

We are pleased to have you here this morning, Director Gates. We have your written statement which will be made a part of the hearing record as will all statements of other witnesses that will follow you. We invite you for any observations that you would like to make on this subject.

STATEMENT OF ROBERT W. GATES, DIRECTOR OF CENTRAL INTELLIGENCE, ACCOMPANIED BY DAVID GRIES, DIRECTOR, CENTER FOR THE STUDY OF INTELLIGENCE

Mr. GATES. Thank you, Mr. Chairman.

I am here today to provide my views on H.J. Res. 454, the Assassination Materials Disclosure Act of 1992. I very much appreciate the opportunity to appear before the committee just as I did before your colleagues in the Senate last Tuesday. I can summarize my statement I think. It is largely the same as the one I did earlier.

Let me just say that, as I have said, I am in complete agreement with the effort underlying the joint resolution, the efforts to declassify and make available as quickly as possible public documents relating to assassination of President Kennedy, that had anything to do with his murder.

I have undertaken a number of efforts at CIA to accelerate the declassification of historical materials, creating a new organization to do that. It will declassify or review for declassification all documents over 30 years old, and Soviet estimates up to 10 years ago. I have asked them to take as their first priority the review for declassification of the documents relating to the assassination of President Kennedy and we have proceeded with that without waiting for legislation.

As I indicated earlier this week we have declassified the first set of these records, the preassassination Oswald file, and these have now been transferred to the National Archives for release. It is a small fraction of what we have, but I wanted to do it right away as an earnest of our intention to move on to declassify these documents and to get them before the public as quickly as possible.

I have made available the Agency's new guidelines for historical review and declassification this week. In connection with these guidelines, I have recently commissioned a task force to review Agency procedures under the Freedom of Information Act. I have instructed this task force to ensure that our internal FOIA procedures are consistent with the approach that I have described for historical declassification.

Although the task force will have to explore the difference between current documents that are often requested under FOIA and 30-year-old documents placed under a historical review program, my intention is to bring to the FOIA process a much more positive attitude toward declassification and release of Agency records. The chart describes the nature of CIA's collection of documents, 250,000

to 300,000 pages of material. I don't need to go into further detail on that.

As I indicated, only about 11 of the preassassination documents belong to CIA. I have brought along a copy of Oswald's file as it existed before the assassination simply to show how thin it was before that time. It was only after the assassination that CIA accumulated most of the documents and material, 33,000 pages on Oswald alone.

There has been comment on the preassassination Oswald file and how little it contained. This material is but the first installment of all the material we will review, merely an earnest of our intentions. All of the assassination-related documents we have will be reviewed for declassification, and we will transfer the declassified documents to the Archives as they are completed without waiting for work on the entirety to be completed.

Mr. Chairman, you have asked about assassination materials that may be held by other intelligence community agencies. The FBI will describe its holdings separately, which I assume include both intelligence and law enforcement records. The National Security Agency and the State Department Bureau of Intelligence and Research report, after a preliminary search, that they have identified a relatively small amount of material responsive to previous inquiries by the Warren Commission, the Church committee, and the House Select Committee on Assassinations.

The Defense Intelligence Agency, which did not come into existence until 1961, has identified no assassination material to date, and it anticipates that any holdings it might have would be minimal because its mission at the time of the Kennedy assassination focused upon foreign military order of battle.

I have indicated in my statement for the record that CIA cannot release a number of documents unilaterally because of limits in the Privacy Act, which protects the names of Americans against unauthorized disclosure, the sequestration of many documents by the House Select Committee on Assassinations, and the fact that many of the documents belong to agencies other than CIA. However, we have already taken steps to lift the sequestration, to coordinate with other agencies, and to begin the process of declassification.

As I indicated earlier in the week, if necessary, and in the absence of legislation, I will ask the House of Representatives for a resolution permitting CIA to release the results of the declassification effort on the sequestered documents. I hope that we can work together to remove any obstacles that might arise in releasing the sequestered documents.

I have indicated that I assume there will be some materials that cannot be released for a variety of reasons, including privacy concerns or the exposure of intelligence sources and methods.

Let me take a moment to give an example. During an investigation by the House Select Committee on Assassinations, I understand that a number of security and personnel files of CIA employees were requested. These files contained performance evaluations, medical evaluations, and credit checks on individual CIA officers.

Although irrelevant to the question of who killed President Kennedy, these and other personal documents ultimately ended up in the sequestered collection of documents. I don't believe that the

benefit to the public of disclosure of this information outweighs the clear privacy interest of the individuals in keeping it confidential.

Similar privacy concerns exist with documents containing derogatory information on particular individuals where the information is based on gossip or rumor. The files contain the names of individuals who provided us intelligence information on a promise of confidentiality and we would not release their names in breach of such a promise.

Where we cannot disclose such information to the public, the Agency will make redactions and summarize the information in order to ensure that the maximum amount of information is released while still protecting the identity of an agent or the privacy of an individual.

As I told your Senate colleagues earlier in the week, if legislation is not passed by the Congress and signed by the President regarding the JFK papers, to enhance public confidence and to provide reassurance that CIA has not held back any information relevant to the assassination, I would appoint a panel of distinguished Americans from outside of government, perhaps including distinguished former jurists, to examine whatever documents we have redacted or kept classified, and they would then issue an unclassified report on their findings.

I believe that these actions attest to the seriousness of our intent to get these documents declassified and released and to open what remains classified to outside nongovernmental review. It is against this background that I cite our few technical reservations about the mechanism established by the joint resolution to achieve this result.

First, vesting in an outside body the determination as to whether CIA materials related to the assassination can be released to the public is inconsistent with my own statutory responsibility to protect intelligence sources and methods. Second, I am concerned that the joint resolution contains no provision requiring security clearances or secure document handling by the Assassination Materials Review Board or its staff.

Third, I am concerned that the joint resolution does not provide the Agency with the opportunity to object to the release of CIA information contained in documents originated by the Congress or the Warren Commission. Under the joint resolution, documents originated by these entities can be released directly by the executive director of the Assassination Materials Review Board without any review by the President or the executive branch.

Fourth, the joint resolution provision for a 30-day period for agencies and departments to appeal decisions of the executive director to release information may not provide sufficient time for meaningful review of what could prove to be a large volume of material at one time.

Fifth and finally, section 6 of the joint resolution, which outlines the grounds for postponement of public release of documents, makes no provision for postponing release of documents that may contain executive privilege or deliberative process, attorney client or attorney work product information.

While such privileges could be waived in the public interest and, in fact, are not likely to arise with respect to factual information

directly relating to the assassination, they would be unavailable under the joint resolution in the rare case they might be needed. These are technical problems that I believe can be solved in ways that will, in fact, expedite the release of documents bearing on the assassination of President Kennedy.

Again, whatever the future course of this legislation, CIA is proceeding even now to review for declassification the relevant documents under its control, and further, we will cooperate fully with any mechanism established by the Congress and the President to declassify this material.

That concludes my summary of my statement, Mr. Chairman.
[The prepared statement of Mr. Gates follows:]

STATEMENT OF ROBERT M. GATES
DIRECTOR OF CENTRAL INTELLIGENCE
BEFORE THE
SUBCOMMITTEE ON LEGISLATION AND
NATIONAL SECURITY
COMMITTEE ON GOVERNMENT OPERATIONS
UNITED STATES HOUSE OF REPRESENTATIVES

15 MAY 1992

Mr. Chairman, I am here today at your request to provide my views on House Joint Resolution 454, "The Assassination Materials Disclosure Act of 1992," and to describe the nature of documents held by the CIA that relate to the assassination of John F. Kennedy. I very much appreciate the opportunity to speak on this important matter, just as I did before your Senate counterparts on Tuesday.

Let me begin by stating that I am in complete agreement with the purpose underlying the joint resolution--that efforts should be made to declassify and make available to the public as quickly as possible government documents relating to the assassination of John F. Kennedy. We hope that opening up and giving journalists, historians and, most importantly, the public access to governmental files will help to resolve questions that still linger over 28 years after the assassination. Further, I believe that maximum disclosure will discredit the theory that CIA had anything to do with the murder of President Kennedy.

Even before introduction of this joint resolution, I recognized the need for greater public access to CIA documents of historical importance. Two months ago, I announced the establishment of a new unit within CIA that will be responsible for declassifying as many historical documents as possible

consistent with the protection of intelligence sources and methods. This new unit, the Historical Review Group, in the Agency's Center for the Study of Intelligence, will review for declassification documents 30 years old or older, and national intelligence estimates on the former Soviet Union that are 10 years old or older. In addition to the systematic review of 30-year-old documents, I have directed the History Staff in the Center for the Study of Intelligence to assemble CIA records focusing on particular events of historical importance, including the assassination of President Kennedy. The Historical Review Group will then examine the documents for the purpose of declassifying the records.

Because of high interest in the JFK papers, I am not waiting for legislation or other agencies to start declassifying documents belonging to CIA. The Historical Review Group, at my direction, already has begun its review of the documents related to the assassination of President Kennedy, and I am happy to report that the first group of these records, including all CIA documents on Lee Harvey Oswald prior to the assassination, has been declassified with quite minimal deletions and transferred to the National Archives for release to the public. This is, I acknowledge, a small fraction of what we have, but it is an earnest of my commitment immediately to begin review for declassification of this material. And, indeed, as I speak, the reviewers are going through a substantial number of documents, and I anticipate that many of these will be released shortly.

As we carry out our program to declassify Kennedy assassination documents, our goal will be to release as many as possible. In fact, I recently approved new CIA declassification guidelines for our Historical Review Program which specifically direct a presumption in favor of declassification. I believe we can be very forward leaning in making these documents available to the public, and I have instructed the Historical Review Group to take this attitude to heart. In this spirit, the Agency is making publicly available these new guidelines for historical review and declassification.

In connection with these historical review guidelines, I have recently commissioned a task force to review Agency procedures under the Freedom of Information Act (FOIA). I have instructed this task force to ensure that our internal FOIA procedures are consistent with the approach that I have described for historical declassification. Although the task force will have to explore the difference between current documents that often are requested under FOIA and 30-year-old documents that are placed into the historical review program, my intention is to bring to the FOIA process a much more positive attitude toward declassification and release of Agency records.

To understand the magnitude of the effort involved in reviewing the JFK papers for declassification, it is important to place them in some context. CIA's collection of documents

related to the assassination of President Kennedy consists of approximately 250,000-300,000 pages of material. This includes 64 boxes of copies and originals of information provided to the Warren Commission and the House Select Committee on Assassinations and 17 boxes of material on Lee Harvey Oswald accumulated after President Kennedy's assassination.

Unfortunately, and for reasons that I do not know, what we are dealing with is a mass of material that is not indexed, is uncatalogued, and is highly disorganized--all of which makes the review process more difficult. The material contains everything from the most sensitive intelligence sources to the most mundane news clippings.

These records include documents that CIA had in its files before the assassination, a large number of records that CIA received later as routine disseminations from other agencies, as well as the reports, correspondence, and other papers that CIA prepared in the course of the assassination investigations. I should emphasize that these records were assembled into the present collection as a result of specific inquiries received from the Warren Commission or the House Select Committee on Assassinations. I have prepared a chart that illustrates this point.

As you can see, prior to President Kennedy's assassination CIA held only a small file on Lee Harvey Oswald that consisted of 34 documents (amounting to 124 pages), some of which originated with the FBI, State Department, the Navy, and

newspaper clippings. (Although I reported slightly smaller numbers to the Senate Committee on Governmental Affairs earlier this week, a subsequent count by my staff revealed these exact numbers.) Only 11 of these documents originated within CIA. I brought along a copy of Oswald's file as it existed before the assassination so that you can see first-hand how slender it was at the time. As I have already noted, we have declassified the CIA documents in this file with quite minimal deletions and provided them to the National Archives. The records in this file dealt with Oswald's defection to the Soviet Union in 1959 and his activities after his return in 1962. By contrast, it was only after the assassination that CIA accumulated the rest of the material on Oswald--some 33,000 pages--most of which CIA received from other agencies after November 22, 1963.

There has been some comment on this pre-assassination Oswald file and how little it contained. I want to reemphasize that this pre-assassination material is but the first installment of all the material that we will review--an example of our intentions. All of the assassination-related documents we have will be reviewed for declassification, and we will transfer the declassified documents to the Archives as they are completed, rather than waiting until work on the entirety has been concluded.

The committee has asked about documents in our possession generated by other agencies. In fact, much of the material held by CIA originated with other agencies or departments. For example,

in the 17 boxes of Oswald records, approximately 40% of the documents originated with the FBI, and about 20% originated with the State Department or elsewhere. Our staff is still going through the material compiled at the request of the Warren Commission and the House Select Committee on Assassinations, which includes 63 boxes of paper records and one box that contains 73 reels of microfilm. The microfilms in part overlap material in other parts of the collection. We estimate that within the 63 boxes of paper records, approximately 27% originated with a variety of other U.S. government agencies, private organizations, and foreign and American press.

Mr. Chairman, you have also asked about assassination materials that may be held by other Intelligence Community agencies. The FBI will describe its holdings separately, which I assume include both intelligence and law enforcement records. The National Security Agency and the State Department's Bureau of Intelligence and Research report, after a preliminary search, that they have identified a relatively small amount of material responsive to previous inquiries by the Warren Commission, the Church Committee, and the House Select Committee on Assassinations. The Defense Intelligence Agency, which did not come into existence until 1961, has identified no assassination material to date, and it anticipates that any holdings it might have would be minimal because its mission at the time of the Kennedy assassination focused upon foreign order of battle.

Although our holdings at CIA do include many documents from other agencies, we nonetheless have a substantial collection of CIA documents that will require a considerable effort to review, and, as I said earlier, at my direction, this review for declassification is now underway. A preliminary survey of these files has provided us some indications of what they contain. Although the records cover a wide variety of topics, they principally focus on CIA activities concerning Cuba and Castro, Oswald's defection to the Soviet Union, and Oswald's subsequent activities in Mexico City and New Orleans. They also include a large number of name traces requested by the staff of the House Select Committee on Assassinations, as well as material relating to the Garrison investigation and Cuban exile activities.

CIA cannot release a number of documents unilaterally because of the limits in the Privacy Act (which protects the names of American citizens against unauthorized disclosure), the sequestration of many documents by the House Select Committee on Assassinations, and the fact that many of the documents belong to agencies other than CIA. However, we have already taken steps to lift the sequestration, to coordinate with other agencies, and to begin the process of declassification. If necessary, in the absence of legislation, I will ask the House of Representatives for a resolution permitting CIA to release the results of the declassification effort on the sequestered documents. I hope that we can work together, Mr. Chairman, to remove any obstacles that might arise in releasing the sequestered documents.

While I expect a large amount of material can be declassified under our program, I assume that there still will be information that cannot be released to the public for a variety of reasons, including privacy concerns or the exposure of intelligence sources and methods. Let me take a moment to give examples of this type of material. During the investigation by the House Select Committee on Assassinations, I understand that security and personnel files were requested on a number of Agency employees. These files contain fitness reports (or performance evaluations), medical evaluations and credit checks on individual CIA officers. Although irrelevant to the question of who killed President Kennedy, these and other personal documents ultimately ended up in the sequestered collection of documents. I do not believe that the benefit to the public of disclosure of this information outweighs the clear privacy interest of the individuals in keeping this information confidential. Similar privacy concerns exist with documents containing derogatory information on particular individuals where the information is based on gossip or rumor. Our files also contain names of individuals who provided us intelligence information on a promise of confidentiality. We would not disclose their names in breach of such a promise. Where we cannot disclose such information to the public, the Agency will make redactions and summarize the information in order to ensure that the maximum amount of information is released while still protecting the identity of an agent or the privacy of an individual.

If legislation is not passed by Congress and signed by the President regarding the JFK papers, to enhance public confidence and to provide reassurance that CIA has not held back any information relevant to the assassination, I would appoint a panel of distinguished Americans from outside of government, perhaps including distinguished former jurists, to examine whatever documents we have redacted or kept classified. They would then issue an unclassified public report on their findings.

The effort required to declassify the documents related to the assassination of President Kennedy will be daunting. However, it is an important program, and I am personally committed to making it work. Even in this time of diminishing resources within the Intelligence Community, I have directed the allocation of 15 full-time positions to expand the History Staff and to form the Historical Review Group that will review the JFK documents and other documents of historical interest.

I believe these actions attest to the seriousness of our intent to get these papers declassified and released, and to open what remains classified to outside, non-governmental review. It is against this background that, in response to the committee's request, I cite our few technical reservations about the mechanism established by the joint resolution to achieve this same result. I intend to address only Intelligence Community concerns; I will

defer to the Department of Justice on any additional problems posed by the joint resolution.

First, vesting in an outside body the determination as to whether CIA materials related to the assassination can be released to the public is inconsistent with my own statutory responsibility to protect intelligence sources and methods.

Second, I am concerned that the joint resolution contains no provision requiring security clearances or secure document handling by the Assassination Materials Review Board or its staff.

Third, I am concerned that the joint resolution does not provide the Agency with the opportunity to object to the release of CIA information contained in documents originated by Congress or the Warren Commission. Under the joint resolution, documents originated by these entities can be released directly by the Executive Director of the Assassination Materials Review Board without any review by the President or other Executive Branch agencies.

Fourth, the joint resolution provision for a 30-day period for agencies or departments to appeal decisions by the Executive Director to release information may not provide sufficient time for meaningful review of what could prove to be a large volume of material at one time.

Fifth and finally, section 6 of the joint resolution, which outlines the grounds for postponement of public release of a document, makes no provision for postponing release of documents that may contain Executive privilege or deliberative process, attorney-client, or attorney work-product information. While such privileges could be waived in the public interest and, in fact, are not likely to arise with respect to factual information directly related to the JFK assassination, they would be unavailable under the joint resolution in the rare case that they might be needed.

These are technical problems that I believe can be solved in ways that will, in fact, expedite the release of documents bearing on the assassination of President Kennedy.

But, again, whatever the future course of this legislation, CIA is proceeding even now to review for declassification the relevant documents under its control. Further, we will cooperate fully with any mechanism established by the Congress and the President to declassify all of this material.

Mr. CONYERS. Thank you very much, Mr. Gates. We appreciate your statement. I only have a couple of observations. Putting them all together, I am interested in how much material

Putting them all together, I am interested in how much material has been destroyed by CIA that we may never know about. Why the Lee Oswald file was opened at the CIA 14 months after his defection? Was Oswald in fact a Soviet spy? And was that picture in his file that was thought to be him—was that an error or was there something involved in that that you can shed some light on?

Mr. GATES. At the risk of appearing appallingly ignorant, Mr. Chairman, I don't know the answers to any of those questions but I will take them for the record and respond quickly to the committee.

[The information follows:]

Central Intelligence Agency



Washington, D.C. 20505

6 July 1992

The Honorable John Conyers, Jr.
 Chairman
 Committee on Government Operations
 House of Representatives
 Washington, D.C. 20515

Dear Mr. Chairman:

During Director Gates' testimony before your Committee on H.J. Res. 454, the "Assassination Materials Disclosure Act," several questions were taken for the record. Enclosed are answers to those questions.

If we can be of further assistance, please do not hesitate to contact Vicki Pepper of my staff at (703) 482-6126.

Sincerely,

A handwritten signature in black ink, appearing to read "Stanley M. Moskowitz".

Stanley M. Moskowitz
 Director of Congressional Affairs

Enclosure

LNS Mail No. 7.57.92

1. How much material has been destroyed by CIA that we may never know about?

We believe that very little material related to President Kennedy's assassination has been destroyed. It is possible that material received before 22 November 1963 may have been destroyed before the assassination in accordance with routine practices because its significance may not have been apparent. In our judgment, after that date any material believed to be relevant to the assassination would have been carefully protected.

2. Why was the Oswald file at CIA opened 14 months after his defection?

As best we can determine, the file on Oswald was opened when a judgment was made that he was of sufficient intelligence interest to merit opening a file. According to the record, the file was opened on 9 December 1960 to accommodate biographic information developed by CIA in response to an inquiry from the State Department on a list of American defectors in the Soviet Bloc. Oswald's name was on that list. We note also that the House Select Committee on Assassinations examined this issue and concluded that the opening of a file by CIA months or even years after a defection was not uncommon during the period 1958-1963. See House Report No. 95-1828, Part 2, at p. 202.

3. Was Oswald in fact a Soviet spy?

CIA has no reason to believe that Oswald was a controlled asset of the KGB, but there were contacts between him and the KGB while he was in the Soviet Union.

4. Was the picture in his (Oswald's) file that was thought to be him an error?

The picture was not that of Oswald. It appears that the picture was sent to CIA Headquarters by someone overseas who was not able to ascertain that the individual in the photo was not Oswald.

5. What consisted of new information (in the Oswald file) that the public had not already had in published files somewhere?

There appears to be little substantive information in the six CIA documents that had not been released previously. Among the new information is wording that revealed Oswald spoke broken Russian to a Soviet Embassy guard in Mexico.

6. If legislation is not passed, would the establishment of a panel of outside experts to review classification determinations violate the Privacy Act?

The establishment of any such panel would need to be done in a manner consistent with the Privacy Act. Probably the best way to accomplish this would be to work with the Archivist of the United States, who we believe could designate the outside experts to review the material.

Mr. CONYERS. Thank you so much. We are here against the background of history and the fact that this is the murder of the century, the President of the United States. I thought it was exemplary that the CIA—I never thought I would be saying this this morning, either—permitted your representatives to discuss the subject matter with various think tanks around the city. One of which included was the Institute for Policy Studies, whose cofounder is Marcus Raskin.

I was told that there was a very candid exchange about this subject matter, which was the purpose of the meeting some dozen or more of your representatives were meeting with them. I think that that is a very healthy sign of the times. I never thought it would happen, so I never thought I would say what I am saying today.

One of the parts of that discussion was that Oliver Stone, the producer of the movie, has been parading around the country saying that you will not meet with him. As a conciliatory Member of this Congress, could I facilitate such an arrangement so that it would help relieve the confusion and the disturbances of a lot of people, since he has, as a result of this movie, become apparently an expert on this subject?

Mr. GATES. Mr. Chairman, I would characterize him as a self-styled expert on this subject. I am no expert at all. I think I have moved very far in the direction of releasing these documents, as you indicated at the outset of the hearing. I think that the Agency has in many ways set a standard in terms of its willingness to release these documents, and we are determined to do so, whether or not there is legislation.

Frankly, I find that the allegations contained in the movie—that I have been told about, I have not seen it—are offensive to the Agency and to the American Government, and to a number of people who were in office at that time, from the President of the United States on down, President Johnson on down.

It is not entirely clear to me what particular purpose would be served by a meeting between myself and Mr. Stone.

Mr. CONYERS. Can you tell me about the sympathy and understanding that you may have for the American people's confusion about whether Lee Harvey Oswald alone was the sole assassin of the President?

Mr. GATES. Well, my view—and it is a very personal view, Mr. Chairman, I have never made a study of the assassination, I have not read the many books that have been written about it—but my personal view is that the enormity of the event and the sense of tragedy that the American people felt and still feel over that event is so great that the idea of a single individual, a single irrational individual committing an act of such enormous historical consequence is enormously difficult for them to accept at face value.

And in many respects it is similar to the continuing controversy over the assassination of President Lincoln. More than a hundred years later, we still read books about conspiracies and so on in that respect.

By the same token, and with all due respect to his memory, there doesn't seem to be a similar kind of controversy about the assassination of President McKinley. So I think it is the inability of

a lot of people to accept such an irrational act with such enormous consequences that has contributed to this.

And I think one of the concerns that grows out of this film is not that people accept it at face value but rather that particularly young people, who may not read much history and may not read the reviews and may not read what historians have to say that is critical about the movie but come out of it with the sense that there is some fire in all that smoke, that he may not have it right but that there must have been some sort of conspiracy.

As I indicated to you the other day, I had a conversation about this with a distinguished U.S. Senator who had sent some of his smartest young staff out to see the movie and they came back and the reaction was not that they accepted what the movie said but their concern that their Government had in some way been involved.

It was that, more than anything else, that prompted me to decide that it was imperative to get these documents out and try to dispel the suspicions that had been created.

Mr. CONYERS. Thank you very much. Mr. Schiff.

Mr. SCHIFF. Thank you, Mr. Chairman.

Director Gates, thank you for appearing personally here. I know that you have a heavy schedule. I have just a few questions but I do have a couple of observations on your statement. I don't know, personally, whether Oliver Stone who testified before us is a real expert on the assassination of President Kennedy or, as you suggested, a self-styled expert.

I do know that it is because of his movie that Members of the Congress are discussing this matter publicly with the director of the CIA, and I am positive that his movie has caused that to happen today, and I give him credit for that. I note your observation that there is not a lingering conspiracy theory involving the assassination of President McKinley.

To your knowledge, anywhere in the Government, your Agency or elsewhere, are there any documents or information which for any reason are not being released with respect to the assassination of President McKinley?

Mr. GATES. I can't speak to that from personal knowledge. Since it predated CIA's creation by 47 years, I think not.

Mr. SCHIFF. I am not sure we will ever resolve all the questions about the assassination of President Kennedy. You are correct, we have not resolved all the questions about the assassination of President Lincoln. On national TV I saw a program suggesting that John Wilkes Booth did not actually die.

But the difference between the assassination of President Kennedy and prior assassinations is this is the one place where the Government still holds information which it considers to be confidential. That is the root of this hearing.

I noted the items that you, as director of the CIA, would consider to still warrant confidentiality today, and I made notes of three. If there were more, I apologize that I missed them. I am not talking about the procedures which you made observations about and which I think you will find the committee willing to discuss with the executive branch—three classifications of records—first person-

nel records involving, I gather, Government agents, perhaps CIA agents, fitness reports, and credit reports.

Second, the privacy issue because Government files often accrue totally unsubstantiated information which can be fairly characterized as gossip but which do get into the files when a total investigation is done. And third, where we have made a specific promise of confidentiality to a particular informant.

Can I ask, are there any other areas of documents that you, as Director of the CIA, believe should not be released in terms of a generic category such as these?

Mr. GATES. No. I would include in the protection of sources the protection of intelligence methods, but I think you captured it.

Mr. SCHIFF. On protection of personnel records, why would those—I understand what you are talking about—I think we all do, matters where there is internal monitoring of your agents which I understand is a necessity at times—why would those records have gotten into the assassination records on President Kennedy? Why are they mixed in there?

Mr. GATES. I don't know. As I understand it, from the materials prepared for me, a great deal of documents were swept up in the material that is kept. As my statement indicates—I don't think I read this part of it—these files contain everything from the most mundane newspaper articles, which are obviously not classified or shouldn't be, to the most sensitive intelligence sources.

So I think it is a hodgepodge. As I also indicated, part of the problem that we have in going through these documents is that they are not indexed, cataloged, and they have no organization to them. When I started asking some months ago what was in the documents, what did we have, it actually took quite some time even to perform a survey to get some ideas of what kind of records were in there. I assume these kinds of things were just swept up with a lot of other material.

Mr. SCHIFF. Let me go to where the Government has promised confidentiality, the Government ought to keep that. Can't the information be released without revealing the informant, because I think it is the information that is desired here, not necessarily of who provided it.

Mr. GATES. My own view is that that should be the case in almost every instance.

Mr. SCHIFF. With respect to intelligence methods, I understand the national security point of view there, but we are also talking about 30 years ago, approximately. Are our intelligence gathering methods so unchanged in 30 years that you believe that revealing how agencies gathered and collected and evaluated information would present a national security risk today if revealed?

Mr. GATES. First of all, if an intelligence method is no longer in use and there is little prospect of it ever being used again—I see no reason to protect it. I think here again though, that the focus should be on the information provided by these sources and methods rather than the identification of the sources and methods themselves.

The only reason I would seek to protect them is in those instances in which those techniques are still being used or we think there is a good chance they will be used again. With respect to

sources, I think that we have a much longer-standing commitment to protect them. But again, I am prepared either under the legislation through the board that would be established or in the absence of legislation through an outside panel to let people who are not in the intelligence business review any of that material that we had held back to see that we had justifiable reasons for doing so.

Mr. SCHIFF. So your overall position is that everything that can be released should be released?

Mr. GATES. Absolutely, Mr. Schiff.

Mr. SCHIFF. Thank you. I yield back.

Mr. CONYERS. Thank you. The Chair recognizes Mr. Thornton.

Mr. THORNTON. Thank you, Mr. Chairman and thank you Director Gates for very forthcoming and positive testimony before this committee.

I think that it is important to emphasize that we share an interest in disclosing all of the information related to the substance of this without jeopardizing the capacity of your Agency to conduct its business, and in fact section 6 of the proposed resolution says that disclosure to the general public of assassination material or particular information in assassination material may be postponed—there is a list, and among that list is “if an intelligence source or method which is currently utilized or reasonably expected to be utilized by the U.S. Government is involved.”

Director Gates, I believe that you are telling us that if the standards that are contained in this resolution were adopted and the CIA's records, as you have suggested they should be, were released with those safeguards—do you believe that any sensitive sources or methods would be revealed or compromised by the information released?

Mr. GATES. The provisions that provide for the protection of sources and methods and allow the President to have the final say would provide adequate safeguards.

Mr. THORNTON. The protections in the bill for intelligence-related information are sufficient?

Mr. GATES. Yes. I indicated we would ask the Congress to consider, I think, two additional categories of information. I mentioned executive privilege or deliberative process, attorney client kinds of information. Again, we think that there will be very little information that would be withheld under those circumstances, but without mentioning it, that recourse would be denied.

The second is, I think it would be useful to pick up on the same protection that the Congress has granted in separate legislation in terms of not revealing the names of covert employees of U.S. intelligence agencies.

Mr. THORNTON. I appreciate those suggestions. The release of the CIA records in accordance with the general outline contained in this resolution would not damage current CIA operations; is that correct?

Mr. GATES. No, sir, not in keeping with those safeguards.

Mr. THORNTON. I know you have recently released some materials regarding Oswald. Can you make a commitment here to properly release all of the files about the CIA's operations against Fidel Castro in the late 1950's and early 1960's?

Mr. GATES. We will certainly—the files concerning Operation Mongoose, AMLASH and so on, are included in the documents that will be reviewed.

Mr. THORNTON. That was a specific followup question as to whether those files would be included in the material. I want to thank you again for your testimony. Like you, I have not seen the movie. That is not the basis of my concern. The basis of my concern is to make sure that all of the information that is in Government possession relating to this assassination be released because, in addition to the movie, I believe there are some inferences drawn by the House Committee on Investigations and by the Garrison jury that, while no showing of a Government conspiracy, there were allusions to the possibility of an external conspiracy and whatever may have existed needs to be dispelled by having the light of full disclosure shone upon the events of that time; would you agree with that?

Mr. GATES. I agree with that totally, Mr. Thornton.

Mr. THORNTON. Thank you. I yield back the balance of my time.

Mr. CONYERS. Mrs. Mink.

Mrs. MINK. Thank you, Mr. Chairman.

I too want to commend the forthright position that you have taken as the head of the CIA in initiating steps to release important documents that will contribute to the better understanding of the public at large as to what exactly happened.

I also agree with my colleagues that, while the conclusions and inferences that were part of Oliver Stone's movie are under question and perhaps totally negated by your agency, they are nevertheless the basis for renewed attention and concern as to exactly what happened on that day. And, therefore, it seems to me appropriate that the chair of this committee asks you to direct your attention to the content of that movie, because what we need now is an informed basis upon which to evaluate it.

I happen to have seen it, unlike some of my colleagues, and there are a number of very troublesome questions that the movie raises. I am in no position to evaluate, as are most of the people in the country, and therefore the disclosure of these documents is extremely important.

Looking at your testimony, Mr. Gates, I notice that you indicate that some of the documents which are relevant to this inquiry cannot be released by the CIA because they are in fact documents which belong to other agencies.

Would you comment on that and clarify that particular statement in your testimony?

Mr. GATES. Yes ma'am. In the course of the post-assassination investigations, a great deal of information was shared among the agencies. For example, in the 17 boxes of Oswald records that we have, approximately 40 percent of those documents originated with the FBI and were simply made available for information to CIA. About 20 percent originated with the State Department or other agencies, Immigration and Naturalization, and so on.

Under the third agency rule, it is our obligation to leave it to those agencies to declassify their own documents. We cannot do that. And by the same token, they exercise the same practice with us.

Mrs. MINK. Would the legislation that we are considering now make it possible for your Agency, as the custodian of records that you have been given by other agencies, be included in your own disclosure? Can we make that possible?

Mr. GATES. I don't think the legislation would do that, Mrs. Mink. I think it would require those other agencies to undertake the same steps that we are in terms of reviewing for declassification documents that we originated. We don't hold the record copies of those documents. We have copies of them.

Mrs. MINK. In the materials that you have volunteered for disclosure with regard to Oswald, how much of the materials in your possession had to be excluded because they were documents that your Agency had been provided by other Government agencies?

Mr. GATES. In this very thin file, of the 34 documents, I think only 11 were originated by CIA. My impression is that others belonging to other agencies had already been declassified.

Mrs. MINK. So that we have the total file with reference to Oswald now in the public domain, is that correct?

Mr. GATES. The total file that CIA had in its possession.

Mrs. MINK. You said all the other agencies have also already declassified, meaning that they are part of the public domain and can be obtained if not necessarily voluntarily released by those agencies are now available public documents?

Mr. GATES. I don't know whether that is the case or not. Only the documents that we had from them have been released as part of the file we released. They may have other documents pre-November 22, 1963.

Mrs. MINK. In other words, with reference to Oswald, everything that you had in your possession, regardless of whether it belonged to other agencies because you found them to be declassified, have all been released?

Mr. GATES. That is my understanding, yes, ma'am.

Mrs. MINK. There is a Washington Post article of May 14 which suggests that the materials that have been disclosed with reference to Lee Harvey Oswald contain nothing new. Is that your understanding also on the documents that you released to the archives?

Mr. GATES. As I indicated earlier, I am certainly no student of this material. I do not know the answer to that question.

Mrs. MINK. Does anyone in the room here from your agency have an answer to that question?

Mr. GRIES. Some of the documents were new and some had previously been released.

Mr. GATES. Some of the documents had not previously been released so it would have represented new information.

Mrs. MINK. Might we know today what exactly were new items that had not been released previously?

Mr. GATES. This is David Gries, the Director of our Center for the Study of Intelligence.

Mr. GRIES. Mrs. Mink, some of these documents had been previously released, about half of those that are originated at the CIA. Among the documents of other agencies which were in our file, it is my understanding—but this would have to be verified—that almost all, if not all, had been previously released.

Mrs. MINK. So what consisted of new information that the public had not already had in its file somewhere?

Mr. GRIES. We would have to respond to you separately on that. I cannot from memory tell you precisely which documents were new. I do know that the new ones were not of much consequence, do not contain any information that was particularly enlightening. We will tell you after the hearing what those are.

Mrs. MINK. If the CIA had been alerted by the State Department by a cable dated October 31, 1959, with respect to Oswald's defection, why didn't the CIA open a file until 14 months later?

Mr. GATES. I don't think we have the faintest idea, Mrs. Mink.

Mrs. MINK. There was no policy in effect in 1959 with reference to persons who publicly announced defection to the Soviet Union?

Mr. GATES. I just don't know.

Mrs. MINK. Has there been any inquiry made within the Agency to determine that 14-month lapse?

Mr. GATES. I don't believe so.

Mr. GRIES. We did attempt to contact people who might have been involved at the time, and that largely failed. And, in addition, we gained no information. We don't know.

Mrs. MINK. I don't know the basis of this conclusion in the news article, but it indicates that the materials that were turned over to the National Archives did not indicate that they were originals, unexpurgated originals, as the article says, that the materials turned over had been altered, revised in some way by the CIA before they were released to the Archives. Is that a—

Mr. GRIES. It is not correct to say that they were altered or revised. Our effort was to furnish the file that we had. That file contained dozens of copies of documents, therefore we thought it appropriate to furnish precisely what we had. What might be characterized as alterations by some, by us are redactions of the kinds of material Director Gates described, meaning some numbers, some names, but I can assure you nothing of any consequence. These are Privacy Act considerations and things of that nature.

Mrs. MINK. Mr. Gates, in your testimony you indicated that you did not support vesting in an outside body the determination of whether CIA materials related to the assassination can be released to the public and to agree to that would be inconsistent with your statutory responsibility.

I take it that you oppose the provisions in this bill which calls for such vesting in an outside body?

Mr. GATES. Frankly, my own view is that the provisions that provide that the President can have the final say—normally I would not shift to the President my burden for protecting sources and methods, but it seems to me that, given the unique circumstances of this case, it seems to me that that is one part of the bill that we could find a way to work around.

Mrs. MINK. Then is it not somewhat inconsistent—in your testimony in saying that if this bill didn't pass and didn't become law, you would appoint a panel of distinguished Americans from outside the Government to do the exact same function for your agency?

Mr. GATES. No. What I would appoint that panel to do is to examine all of the redactions we had made and to examine all the documents that we had decided could not be declassified and then

provide a report to the American people on whether or not any of those redactions or those withheld documents had a bearing on the assassination. They would not make the decision to declassify.

Mrs. MINK. Would the establishment of such a panel of outside experts in effect also, under your definition, violate the Privacy Act?

Mr. GATES. I don't know the answer to that. I would have to have our attorneys look at it.

Mrs. MINK. Thank you, Mr. Chairman.

Mr. CONYERS. Well, thank you, very much, Mrs. Mink. You have touched on some very important areas.

There are just two related considerations that I would like to bring to your attention, Director Gates. One is in the Freedom of Information Act, where electronic data is a discretionary matter with the Agency. We would like you to review the problem with the release of CIA electronic data of a previously released request. It is a technical point, but I bring it to your attention for your future consideration.

Mr. GATES. All right, sir.

Mr. CONYERS. And, finally, with regard to the Castro records, and AM/LASH and Gilberto Lopez, it is my hope that you will elevate those as high up on your agenda for consideration for release as soon as appropriate. There are a number of Members in the Congress that have asked me to bring this matter to your attention as well.

Mr. GATES. I think we can do that, Mr. Chairman.

Mr. CONYERS. Thank you very much, and on behalf of the committee, we deeply appreciate your appearance before us today.

Mr. GATES. Thank you very much.

Mr. CONYERS. Our next witnesses are from the Department of Justice, Floyd Clarke, Deputy Director of the Federal Bureau of Investigation; and David Leitch, Deputy Assistant Attorney General, Office of Legal Counsel.

Gentlemen, we welcome you, put your written testimony into the record, encourage your summaries, and Mr. Clarke, we invite you to begin.

STATEMENT OF FLOYD CLARKE, DEPUTY DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

Mr. CLARKE. Good morning, Mr. Chairman, and members of the committee. It is my pleasure to appear before you today to testify about the FBI investigation relating to the assassination of President John F. Kennedy.

FBI Director Sessions testified recently about this important topic, and wanted to be here today personally, but, unfortunately, prior out-of-town commitments precluded him from doing that. He did ask, though, Mr. Chairman, that I express his appreciation to you for this opportunity, and the committee's attention be drawn to his prior testimony and asked that this record be supplemented today with that prior testimony.

Mr. CONYERS. We will do that. Without objection, so ordered.

[The prepared statement of Mr. Sessions follows:]